

**UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION  
CORPORATION,

Plaintiff-Applicant,

v.

BERNARD L. MADOFF INVESTMENT  
SECURITIES LLC,

Defendant.

No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

In re:

BERNARD L. MADOFF,

Debtor.

IRVING H. PICARD, Trustee for the Liquidation of  
Bernard L. Madoff Investment Securities LLC,

Plaintiff,

v.

ESTATE OF WILLIAM DIAMOND and LESLIE  
DIAMOND KAPLAN HODES, in her capacity as the  
Personal Representative of the Estate of William  
Diamond,

Defendants

Adv. Pro. No. 10-04717 (SMB)

**STIPULATION AND ORDER FOR VOLUNTARY  
DISMISSAL OF ADVERSARY PROCEEDING WITHOUT PREJUDICE**

Irving H. Picard (the “Trustee”), as trustee for the liquidation of the business of Bernard L. Madoff Investment Securities LLC under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa, *et seq.*, and the substantively consolidated estate of Bernard L. Madoff individually, by and through his counsel, Baker & Hostetler LLP, and Estate of William Diamond and Leslie Diamond Kaplan Hodes, in her capacity as Personal Representative of the Estate of William

Diamond (“Defendants”), by and through their counsel, Cabot Marks of MarksDiPalermo PLLC, collectively, the “Parties”), hereby stipulate and agree to the following:

1. On December 1, 2010, the Trustee filed and served the Complaint against Defendant William Diamond.

2. On July 9, 2015, Defendant William Diamond died.

3. On September 18, 2015, Defendant served an answer on the Trustee.

4. On November 30, 2015, Defendants Estate of William Diamond and Jeffrey A. Diamond, in his capacity as Personal Representative of the Estate of Williams Diamond, were substituted in as Defendants for William Diamond, deceased.

5. On May 26, 2016, Leslie Diamond Kaplan Hodes, as Personal Representative of the Estate of William Diamond, was substituted in as Defendant for Jeffrey A. Diamond, deceased.

6. On July 10, 2017, the Parties entered into a settlement agreement (the “Settlement Agreement”) pursuant to the Settlement Procedures Order, entered by this Court on November 12, 2010 [Dkt. No. 3181].

7. In accordance with Federal Rule of Bankruptcy Procedure 7041(a)(1)(ii), and Federal Rule of Civil Procedure 41(a)(1), the Parties hereby stipulate to a dismissal without prejudice of the Trustee’s claims against Defendants in the above-captioned adversary proceeding and dismissal of the adversary proceeding without prejudice, subject to the right of the Trustee to move *ex parte* to re-open this adversary proceeding in the event of an uncured default under the terms of the Settlement Agreement. Upon the Trustee’s receipt of the full Settlement Amount as set forth in the Settlement Agreement, and provided there is no default under the Settlement Agreement, this dismissal shall be deemed with prejudice.

8. The provisions of this Stipulation shall be binding upon and shall inure to the benefit of the Parties and their respective successors and assigns and upon all creditors and parties of interest.

9. This Stipulation may be signed by the Parties in any number of counterparts, each of which when so signed shall be an original, but all of which shall together constitute one and the same instrument. A signed facsimile, photostatic, or electronic copy of this Stipulation shall be deemed an original.

New York, New York  
July 13, 2017

By: /s/ Nicholas J. Cremona  
**BAKER & HOSTETLER LLP**  
45 Rockefeller Plaza  
New York, New York 10111  
Telephone: 212.589.4200  
Facsimile: 212.589.4201  
David J. Sheehan  
Email: dsheehan@bakerlaw.com  
Nicholas J. Cremona  
Email: ncremona@bakerlaw.com  
Dean D. Hunt  
Email: dhunt@bakerlaw.com

*Attorneys for Irving H. Picard, Trustee for the  
Substantively Consolidated SIPA Liquidation  
of Bernard L. Madoff Investment Securities  
LLC and the Estate of Bernard L. Madoff*

By: /s/ Adam N. Love  
**MARKSDIPALERMO PLLC**  
485 Madison Avenue, Suite 1300  
New York, New York 10022  
Telephone: 212.370.4477  
Facsimile: 212.588.0471  
Cabot J. Marks  
Email: cjmarks@cjmlawny.com  
Adam N. Love  
Email: alove@cjmlawny.com

*Attorneys for Defendants Estate of William Diamond  
and Leslie Diamond Kaplan Hodes, in her capacity  
as the Personal Representative of the Estate of  
William Diamond*

SO ORDERED:

Dated: July 13<sup>th</sup>, 2017  
New York, New York

/s/ STUART M. BERNSTEIN  
HON. STUART M. BERNSTEIN  
UNITED STATES BANKRUPTCY JUDGE